



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY**

Washington, D.C. 20503

March 1, 2005

The Honorable David M. Walker
Comptroller General
Washington, D.C. 20548-0001

Dear Mr. Walker:

This letter informs you that the Government Accountability Office (GAO) found that the use of video news releases by the National Youth Anti-Drug Media Campaign (21 U.S.C. 1801 *et seq.*) violates the Anti-Deficiency Act. (15 U.S.C. 1351). I must report to the President and to the Congress that I object to the GAO's findings.

Congress authorized the National Youth Anti-Drug Media Campaign (Media Campaign) to fashion anti-drug messages in motion pictures, television programming, and popular music. Moreover, Congress expressly authorized the Media Campaign to engage in public information dissemination and "news media outreach." 18 U.S.C. 1802(a)(2)(H). Congress did not define the phrase "news media outreach," but the language has long been interpreted to authorize the Media Campaign to engage in news media outreach practices, including the use of video news releases.

For example, the previous administration produced and distributed video news releases under a five-year contract it awarded in December 1998. We continued the practice under the existing contract. Between 2002 and 2004, the contractor produced and distributed eight video news releases. The last distribution occurred in January 2004.

In May 2004, the GAO determined that the Department of Health and Human Services' use of video news releases violated a government-wide restriction on publicity and propaganda. That restriction states that "[n]o part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress." The GAO reasoned that HHS' use of video news releases constituted "covert propaganda" because HHS failed to disclose to the ultimate viewing audience that the government helped fashion the message.

The GAO made its determination even though it acknowledged that: 1) video news releases are widely used by private and public organizations to conduct news media outreach; 2) broadcasters chose which material to air; and 3) broadcasters knew the government produced the videos. The GAO determined that in light of the publicity and propaganda language included in each appropriation act, the government must be held to a standard different from that of private organizations.

In July 2004, Congressman Waxman asked the GAO to determine whether the video news releases developed during 2002-2004 for the National Youth Anti-Drug Media Campaign might constitute covert propaganda.

On January 4, 2005 the GAO issued its opinion. It found that the video news releases produced for the Media Campaign constituted covert propaganda and that my Office had no authority to expend federal funds for such purposes. Consequently, the GAO found that my

Office violated the Anti-Deficiency Act. Subsequently, Chairman Tom Davis of the House Government Reform Committee wrote to the GAO objecting to their determination. A copy of that letter is attached.

I find no additional action is necessary to discipline or remediate any process or employee. I make this determination on three grounds. First, video news releases do not constitute covert propaganda. Second, Congress intended the National Youth Anti-Drug Media Campaign to produce and distribute video news releases. Third, the video news releases can be modified to comply with the GAO requirements and the cost to do so is minimal.

1. Video news releases do not constitute covert propaganda.

A video news release is a videocassette containing a pre-packaged news story. It contains a complete audio-visual presentation designed for broadcast by television news organizations. The video news release is produced in the same manner as if produced by a television news organization, and is used by local and cable television broadcasters. It helps broadcasters lower the cost of gathering and producing news.

The GAO found pivotal the fact that broadcasters could air without edit the government's video news releases. The GAO reasoned that because the unedited content of video news releases is controlled solely by the government, the government must inform the ultimate viewing audience that the government produced the video. We disagree.

Although video news releases produced and distributed by the government can theoretically be broadcast without edit, it is unlikely that broadcasters would do so. Each video news release is approximately two minutes in length, and local broadcasters rarely, if ever, devote two minutes to any one news story. Consequently, broadcasters generally must edit content and make the final version their own.

Moreover, even though video news releases are initially products of the government (and are clearly marked as such), each broadcaster must decide whether to adopt or edit the government's information. The broadcaster's election to air the material transforms control over content to the broadcaster. Since the government does not control what or how information is aired, the video news releases do not constitute covert propaganda.

2. Congress intended the National Youth Anti-Drug Media Campaign to produce and distribute Video news releases

The purpose of the National Youth Anti-Drug Media Campaign is to reduce and prevent drug abuse among young people in the United States. Congress anticipates that the Media Campaign will measurably influence the attitudes and affect behaviors of the target audiences.

Congress authorizes the Media Campaign to use various media to obtain results. For example, the Media Campaign may collaborate to fashion anti-drug messages in motion pictures and popular music, and Congress specifically authorizes the Director to influence news reports by conducting "news media outreach." 21 U.S.C. 1802(a)(1)(H).

The statutory language which permits the Media Campaign to influence news reports through media outreach provides the authority to produce and distribute video news releases. The use of video news releases is a popular means of conducting news media outreach, and the

practice is widespread and widely known. It is difficult to give a different meaning to the phrase "conduct news media outreach" without including the authority to produce and distribute video news releases.

More importantly, Congress was aware of the Media Campaign's use of video news releases. We have expressly informed the oversight committees on numerous occasions of the plans to produce and disseminate video news releases. In no instance were we advised that such activities would be contrary to the intent of our authorizing legislation or outside the purposes of our appropriation Acts.

Unlike the circumstance in the HHS cases, Congress specifically intended that the Media Campaign produce and distribute video news releases. Accordingly, we find no violation of the prohibition on covert propaganda or the Anti-Deficiency Act.

3. The Video news releases can be modified to comply with the GAO restrictions.

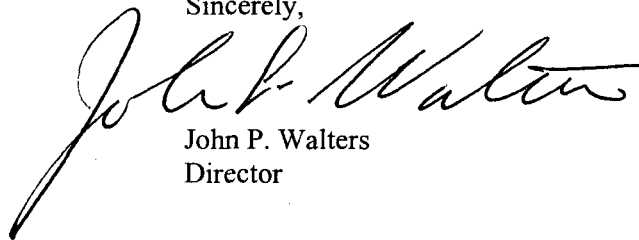
The Anti-Deficiency Act at section 1341 of Title 31, United States Code, prohibits executive officers from involving the government in expenditures or liabilities beyond those contemplated by the respective appropriation.

The GAO asserts that the video news releases produced by the National Youth Anti-Drug Media Campaign are improper expenditures beyond those contemplated by our appropriation. Even so, GAO acknowledges that the video news releases could be made proper by simply including a tagline or voiceover which identifies the Campaign as the producer of the material.

Since the cost of compliance is minimal, and the production and distribution of the video news releases was made in good faith, we see no merit in imposing discipline or remedial measures on any employee.

Please note that identical reports will be submitted to the presiding officer of each House of Congress.

Sincerely,

A handwritten signature in cursive script, reading "John P. Walters". The signature is written in dark ink and is positioned above the printed name and title.

John P. Walters
Director